CWP No. 899 of 2006.

9-3-2007: Present: Ms. Sunita Sharma, Advocate, for the Petitioner.

Mr. M.S. Chandel, Advocate General with Mr. for the respondent No.1.

Mr. Ajay Sharma, Advocate, for respondents No.1 to 6.

The present petition has been filed, mainly on the ground that the petitioner was condemned unheard by the revenue authorities, therefore, sought the quashing of the orders Annexure-P1 to P3 passed by them being unjust, illegal and against the principles of natural justice.

In brief, the facts are that one Shri Ved Parkash respondent had moved an application before the Settlement Officer Kangra seeking the correction of the revenue entries qua old khasra numbers 201, 214, 215, 208, 207, out of which new khasra numbers 659, 660, 661, 665, 683, 684 and 664 were carved out. The new measurement is alleged to be contrary to the old measurement. The inquiry was got conducted by the Settlement Officer, before whom the application was pending, he made some corrections vide his order dated 30.3.2001 (Annexure-P3). The petitioner, herein unsuccessfully assailed the said order before the Commissioner Revenue, Kangra Division wherein he had contended that the petitioner was not given opportunity to put his case either by the Kanungo or by the Naib Tehsildar. Thereafter, he filed the revision petition No. 147 of 2006 before the Financial Commissioner (Appeals) on the same ground and also raised the contention that the Settlement Officer had given undue weightage to the report of the Naib Tehsildar. After examining the record, the Financial Commissioner (Appeals) dealt with the objections so raised and on the perusal of the record of the revenue Courts below could not convince itself that any grave irregularity or illegality was committed which

could warrant any interference, accordingly, the revision was dismissed. Hence the present petition.

We have heard the learned counsel for the petitioners in detail.

To appreciate the point raised by the petitioner that he was not heard at all by the revenue authorities during the time of demarcation, we directed the learned Advocate General to produce the record of the revenue authorities concerned which was perused by us.

On the examination of the said record, the plea raised by the petitioner stands falsified. As a matter of fact, even during the demarcation by the Kanungo Settlement, the petitioner was present on various dates. Though he did not get recorded any statement before him, but time was given to him to file objections, if any but for a period of about one and half months, no written objections were ever filed which fact is clear from the perusal of the zimni order dated 14.7.2000. Even thereafter when the matter was taken up by the Assistant Collector 2nd Grade Dharamshala, the petitioner happened to be present before him and more particularly on 1.3.2001 when the matter was considered in the light of the report of the Kanungo. Even at that stage, the petitioner failed to file any objection. Thereafter, the matter was adjourned for 30.3.2001 on which date, the final order was passed.

Therefore, in view of the above facts, we are not in agreement with the learned counsel for the petitioner that the petitioner was not given proper hearing and opportunity by the Revenue officer below to file any objection .Even otherwise, it is not incumbent upon the Revenue Officer or any other person to invite the objections in such type of cases, however, duty lays upon the person aggrieved, if he has any objection, to file the same in writing for taking a decision there upon by the authority before whom it is preferred. Since on the scrutiny of the record, we do not find

that there has been a breach of the principles of natural justice and particularly that the petitioner was condemned unheard, no fault could be found with the impugned order passed by the Financial Commissioner (Appeals). Accordingly the petition merits dismissal which is accordingly dismissed. The records of the revenue authorities returned to the Advocate General.

CMP No. 1434 of 2006.

No order in view of the disposal of the writ petition.

(Deepak Gupta), J.

(Surinder Singh), J.

March 9, 2007
(BM)